

**BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA**

Order Instituting Rulemaking Regarding Policies,  
Procedures and Rules for the California Solar  
Initiative, the Self-Generation Incentive Program  
and Other Distributed Generation Issues.

Rulemaking 06-03-004  
(Filed March 2, 2006)

**ADMINISTRATIVE LAW JUDGE'S RULING WITH MODIFICATION TO STAFF  
PROPOSAL AND ADDITIONAL GUIDANCE ON  
COMMENTS DUE MAY 15, 2006**

On April 25, 2006, I issued a ruling requesting comment on a proposal by staff from the Commission's Energy Division on "performance-based incentives" and other program elements for the California Solar Initiative (CSI). On May 4, 2006, Energy Division staff held an all day workshop to answer questions on the staff proposal.

This ruling informs the parties that staff wishes to modify their proposal in one area related to the non-profit incentive administration for small residential and commercial systems. Parties should note this modification and comment accordingly. In addition, the ruling provides additional guidance to parties when filing comments. Attached to this ruling is a list of suggested questions that parties may wish to answer in their comments, in addition to the questions contained in the April 25 Staff Proposal. These new questions arose at the May 4, 2006 workshop.

**Modification of Proposal**

At the May 4, 2006 workshop on the staff proposal there was some discussion about the feasibility of the structure proposed for the small system

(non-profit) administrator (Section 6.2 of the April 25, 2006 staff proposal). Staff reviewed the matter further and now proposes a slightly different approach to the selection and oversight of the administrator described in Section 6.2. Staff now proposes the following modifications to their earlier proposal:

- The CSI non-Investor-owned Utility (IOU) administrator selection panel will be advisory to Pacific Gas and Electric (PG&E), the contracting IOU. The panel will consist of one representative each from PG&E and the California Energy Commission (CEC), and two members from California Public Utilities Commission (CPUC) staff. PG&E will make the final selection, in consultation with the advisory panel.
- PG&E will execute and manage the non-IOU administrator's contract in a manner similar to the existing Self Generation Incentive Program (SGIP) administrative arrangement between San Diego Gas & Electric Company (SDG&E) and the San Diego Regional Energy Office (SDREO). As with the SGIP, the IOU and the non-IOU administrators will carry out their assigned CSI administrative activities, in consultation with CPUC staff as needed. All policy matters and interpretations of Commission decisions remain the exclusive responsibility of the Commission.
- The CPUC may seek an IRS ruling to determine whether non-utility third-party administration would result in the IRS treating CSI incentives as taxable income.
- If under IRS rules it appears that non-utility administration would cause significant taxable treatment of CSI incentives paid by such an administrator, the Commission may consider utility administration for all components of the CSI.

Other aspects of the staff proposal (e.g. qualifications, functions) remain unchanged. When commenting on small system program administration, parties should comment on the proposed structure with this modification in mind.

### **Additional Guidance**

When providing comments, parties should adhere to the following:

1. In the opening paragraph of your comments and reply comments, reference all of the section numbers of the staff proposal that you will comment on (e.g., Section 2.2 Federal Tax Credits, Section 2.4 Expected Performance Based Buy Down, Section 4, Incentive Level Adjustments, etc.). This will make it easier to organize and identify issues in the comments. Please use the section numbers in the staff proposal as an outline for your own comments and reply comments.
2. Be specific when critiquing the staff proposal by describing what elements or assumptions in the proposal you would modify. Provide specific sources and/or citations to the information that you rely on as the source for your own proposals or modifications to the staff proposal. If necessary, attach supporting documentation or declarations of experts to support your views.
3. The comments and any supporting declarations must be filed in hard copy with the Commission and served electronically to other parties, according to Commission rules.

Therefore, **IT IS RULED** that:

1. Parties should comment on the updated proposal for the California Solar Initiative administration contained in this ruling.
2. Parties should adhere to the additional guidance provided in this ruling when filing comments on May 15, 2006, and reply comments on May 26, 2006.

Dated May 9, 2006, at San Francisco, California.

/s/ DOROTHY J. DUDA

Dorothy J. Duda  
Administrative Law Judge

## **SUPPLEMENTAL QUESTIONS FROM THE MAY 4, 2006 WORKSHOP REGARDING CPUC STAFF PROPOSAL FOR THE CSI**

### **Expected Performance Based Buydown (EPBB)**

- Should there be a minimum design standard for eligibility (e.g. 60% of optimal)? If so, what should that minimum be?
- Should CSI incentive payments be based on “CEC-AC,” or “true system AC” or some other variation?
- The current draft proposal only talks about *reductions* to the base level CSI payment based on variations relative to system installation facing due South tilted 30%. Tracking systems should be eligible for incentive payments which are higher. How should EPBB incentives be calculated for tracking systems or other high-performance solar technologies?

### **Performance Based Incentives (PBI)**

- The staff proposal would allow upside PBI payments for up to 10% above the kWh (or BTU) expected for the reference cases of 0.2 capacity factor for flat PV, and 0.3 for tracking systems. Such a cap helps manage incentive funds reserved for systems, and recognizes that higher-performing systems provide favorable economics to the owner. What alternative approach could be taken to reward even higher performance solar systems, while still managing the incentive funds budgeted, and not paying excessive incentives relative to the solar owner’s economics?
- Parties have questioned if the staff recommendation utilizes data from the CEC’s pilot PBI program. Which data from the pilot program would be useful for CSI development? Please reference the specific data and indicate its application to the CSI development.

### **EPBB and PBI**

- For both forms of incentives, if the units of analysis are per watt CEC-AC, or per “true system AC”, do the staff’s analyses use reasonable estimates of solar system cost for the comparable watts-AC that correspond to the solar system sizes in the examples?

- Parties have stated that a .20 capacity factor is not accurate for PV systems. Please provide or reference data that supports this claim and make recommendations for a more appropriate capacity factor using supporting data.

### **Small Customer Program Administration**

At the May 4, 2006 workshop on the staff proposal there was some discussion about the feasibility of the structure proposed for the small system (non-profit) administrator (Section 6.2 of the April 25, 2006 staff proposal). Staff reviewed the matter further and now proposes a slightly different approach to the selection and oversight of the administrator described in Section 6.2. Staff now proposes the following modifications to their earlier proposal:

- The CSI non-IOU administrator selection panel will be advisory to PG&E, the contracting IOU. The panel will consist of one representative each from PG&E and the CEC, and two members from CPUC staff. PG&E will make the final selection, in consultation with the advisory panel.
- PG&E will execute and manage the non-IOU administrator's contract in a manner similar to the existing SGIP administrative arrangement between SDG&E and SDREO. As with the SGIP, the IOU and the non-IOU administrators will carry out their assigned CSI administrative activities, in consultation with CPUC staff as needed. All policy matters and interpretations of Commission decisions remain the exclusive responsibility of the Commission.
- The CPUC may seek an IRS ruling to determine whether non-utility third-party administration would result in the IRS treating CSI incentives as taxable income.
- If under IRS rules it appears that non-utility administration would cause significant taxable treatment of CSI incentives paid by such an administrator, the Commission may consider utility administration for all components of the CSI.

- Since we do not know how fast the IRS will make a determination of the tax status of incentives from a non-profit administrator, should we delay taking this approach?

Other aspects of the staff proposal (e.g. qualifications, functions) remain unchanged. When commenting on small system program administration, parties should comment on the proposed structure with this modification in mind.

### **Trigger Adjustment**

- We welcome comment or thoughts on how alternate trigger adjustment approaches could take into consideration the following factors:
  - customers' different access to federal tax credits
  - changes in retail price of energy displaced - forecast
  - solar technology installed cost trajectory
  - solar technology innovation and performance trajectory
  - 2006- 2016 budget of \$2.4 billion maximum for incentive payments
  - 2006-2016 goal of 2600 installed MW for CPUC portion of CSI target
  - market response to CSI incentive levels
- What administrative mechanism can oversee and make these adjustments? (e.g.:)
  - A new CPUC proceeding each time?
  - An ALJ ruling based on staff recommendation and public comment (possibly with Commission affirmation)?
  - Delegation to the collective group of administrators, in consultation with CPUC staff?
- If incentive funds are reserved at the "conditional reservation" stage for an application, and the applicant later drops out, this risks tying up funds that can then not be used by others seeking that year's incentive level. If the reserved funds do not get used, they may be returned to the incentive budget at possibly a later time when incentive levels are lower.

This has the potential effect of not maximizing fund expenditures each year. What options are available to reduce the drop-out rate after the conditional reservation stage?

### **Non-PV Technologies**

- How should we handle a combination renewable/fossil technology system?
- If solar water heating qualifies as an energy efficiency measure (under rules of the EE proceeding), should solar water heating receive similar treatment under CSI, especially if we will have “lost opportunities” to put solar water heating on buildings while awaiting the results of the SDREO pilot?
- Is 15% an appropriate number for automatically declining the incentive for CSP incentives? If not provide data to support an alternative method or percentage.

### **Energy Efficiency**

- What standard criteria and qualifications should we specify for non-utility provision of energy efficiency audits?
- Should the CPUC also automatically exempt all new commercial construction, since by law this must comply with Title 24 energy efficiency codes?

### **Metering**

- How should CSI metering requirements be integrated with the Advanced Metering Initiative?
- If inverters have “internalized meters”, is their accuracy sufficient to avoid a separate “revenue grade” meter? Can communications systems remotely read and send the data from such an “internalized meter”? What happens if the inverter’s internalized meter is not consistent with the “best fit” of meter(s) that a utility may specify to ensure data can be fed into their data recording and billing systems?





**CERTIFICATE OF SERVICE**

I certify that I have by mail this day served a true copy of the original attached Administrative Law Judge's Ruling With Modification to Staff Proposal and Additional Guidance on Comments Due May 15, 2006 on all parties of record in this proceeding or their attorneys of record.

Dated May 9, 2006, at San Francisco, California.

/s/ JOYCE TOM

Joyce Tom

**N O T I C E**

Parties should notify the Process Office, Public Utilities Commission, 505 Van Ness Avenue, Room 2000, San Francisco, CA 94102, of any change of address to insure that they continue to receive documents. You must indicate the proceeding number on the service list on which your name appears.